

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CHERYL LOGGINS §
v. § CIVIL ACTION NO. 9:10CV52
DIAGNOSTIC RADIOLOGY OF §
NACOGDOCHES, P.A., ET AL.

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this case has been presented for consideration. The Report and Recommendation recommends that the Motion to Dismiss for Failure to State a Claim, and in the Alternative, Motion for More Definite Statement (document #20, #21) be denied. Defendant Collecto, Inc., d/b/a CCA filed written objections to the Report and Recommendation on September 13, 2010.

Having made a *de novo* review of the written objections filed by Plaintiff, the Court finds that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. It is noted that Defendant relies heavily on the case of *Southland Securities Corp. v. INSPire Ins. Solutions, Inc.*, 365 F.3d 353 (5th Cir.2004), but that case concerned the heightened pleading requirements for a fraud claim pursuant to Fed.R.Civ.P. 9(b) and for a claim brought pursuant to the Private Securities Litigation Reform Act. In this case, Plaintiff has complied with Fed.R.Civ.P. 8 and has provided a sufficient short and plain statement of her claims against Defendant. Specific facts sought by Defendant, such as the specific date and method by which Defendant reported

adverse information to credit reporting agencies, if at all, is information within Defendant's control. The applicability of the relevant statutes of limitation would more appropriately be considered in this case after discovery. Plaintiff has alleged enough facts to state a claim that is plausible on its face and that is not so vague or ambiguous that Defendant cannot reasonably frame a responsive pleading. The Court, therefore, adopts the findings and conclusions of the Magistrate Judge as those of the Court.

In light of the foregoing, it is

ORDERED that the Motion to Dismiss for Failure to State a Claim, and in the Alternative, Motion for More Definite Statement (document [#20](#), [#21](#)) is **DENIED**.

So **ORDERED** and **SIGNED** this 17 day of September, 2010.



Ron Clark, United States District Judge